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ORIGIN EB-07

INFO OCT-01 ARA-06 ISO-00 CIAE-00 COME-00 DODE-00 DOTE-00

FMC-01 INR-07 NSAE-00 CG-00 OFA-01 DLOS-04 SP-02

AID-05 NSC-05 CIEP-01 TRSE-00 SS-15 STR-04 OMB-01

CEA-01 H-02 XMB-02 PRS-01 /066 R

DRAFTED BY EB/TT/MA:SVSMITH:EW

APPROVED BY EB/TT/MA:RKBANK

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ARA/ECP:MDAVILA

FMC:WJSMITH

MARAD:ESPARDUE/FRAITER

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P 232257Z JAN 76

FM SECSTATE WASHDC

TO AMEMBASSY SANTIAGO PRIORITY

C O N F I D E N T I A L STATE 017847

E.O. 11652: GDS

TAGS: EWWT, CI

SUBJECT: DISCRIMINATORY SHIPPING PRACTICES

REF: (A) 275405 (1975); (B) STATE 11383;

(C) SANTIAGO 268

1. VICE-PRESIDENTS LUIS VIADA AND ROBERT FOSTER OF PRUDENTIAL LINES MET WITH DEPARTMENT, FEDERAL MARITIME COMMISSION (FMC), AND MARITIME ADMINISTRATION (MARAD) OFFICIALS JANUARY 19 TO DISCUSS OUR EFFORTS TO HAVE CHILEAN DISCRIMINATORY PRACTICES WITHDRAWN. VIADA REPORTS THAT PRESENTLY THE ONLY CARGO CHILEANS ARE ALLOWING PRUDENTIAL TO CARRY ARE THE FRUIT SHIPMENTS WE FIRST RAISED IN PARA 2, REF A.

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2. VIADA'S IMPRESSION OF THE CHILEAN GOVERNMENT'S INTERNAL DIFFERENCES IS SIMILAR TO THAT REPORTED IN REF C. VIADA REITERATED HIS BELIEF THAT THE MINISTRY OF TRANSPORT IS UNDER THE STRONG INFLUENCE OF CHILEAN LINES' GUBLER, WHO HAS CONVINCED MINISTRY OF TRANSPORT THAT USG WILL NEVER TAKE COUNTERVAILING ACTIONS, SUCH AS "SECTION 19" PROCEDURES AGAINST CHILE. NOW THAT IT IS BECOMING MORE LIKELY THAT USG MAY HAVE TO TAKE COUNTERVAILING ACTION, VIADA WOULD PREFER THAT IN CHOOSING SUCH ACTION, WE NOT CANCEL MARAD WAIVERS FOR CHILEAN CARRIAGE OF 50 PER CENT OF EXIMBANK CARGOES DESTINED FOR CHILE, BUT INSTEAD RELY ON FMC "SECTION 19" ACTIONS. VIADA BELIEVES THAT IF THE MARAD WAIVERS WERE TO BE CANCELLED IT WOULD LIKELY CAUSE THE CHILEANS TO DISAVOW THEIR POOLING AGREEMENTS WITH PRUDENTIAL AND LYKES ON SOUTHBOUND CARGOES.

3. DEPARTMENT, OF COURSE, SHARES EMBASSY'S AND GOC'S UNCERTAINTY, REFLECTED PARA 4, REF C, OVER RELATIONSHIP OF DL 1297 AND A POSSIBLE REINTERPRETATION OF VAT REBATE. HOWEVER, AS REPORTS OF CURRENT CHILEAN PRACTICES REACH US, AND AS WE CONTINUE TO STUDY DL 1297, IT IS BECOMING MORE AND MORE EVIDENT THAT THIS CHILEAN ATTEMPT TO SATISFY THE U.S. MAY NOT BE ACCEPTABLE. WE ARE APPREHENSIVE THAT EVEN IF PROPERLY ADMINISTERED, DL 1297 INSURES 50 PERCENT OF THE CARGOES FOR CHILEAN LINES AND ONLY ALLOWS PRUDENTIAL, LYKES AND THIRD FLAG LINES TO COMPETE WITH CHILEAN LINES FOR THE OTHER 50 PERCENT. ADDITIONALLY, WITH MINISTRY OF TRANSPORT ADMINISTERING DL 1297, WE FEAR THAT MORE ATTRACTIVE, HIGH-RATED CARGOES WILL GO TO CHILEAN LINES WITH THE LESS ATTRACTIVE, LOWER REVENUE CARGOES BEING LEFT TO PRUDENTIAL, LYKES AND THE OTHERS. (VIADA REPORTS THAT PRESENTLY, NO MATTER WHAT CARGOES PRUDENTIAL SEEKS, THEY ARE DENIED WAIVERS ON

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THE GROUNDS THAT THE CARGO COMES UNDER THE CHILEAN LINES' 50 PERCENT.) EVEN IF DISCRIMINATION COULD BE REMOVED IN CHILE/US TRADE, US OBJECTION TO DL 1297 WOULD REMAIN SINCE IT PREVENTS US SHIPS FROM LOADING WAYPORT CARGOES. THUS, AS EMBASSY PROBABLY ALREADY REALIZES, DL 1297, EVEN IF PROPERLY ADMINISTERED, DOES NOT APPEAR TO BE AN ACCEPTABLE SOLUTION. THE

ONLY SOLUTION WE WOULD BE COMPLETELY HAPPY WITH WOULD BE ONE WHICH WOULD ALLOW U.S. FLAG VESSELS TO COMPETE FREELY FOR ALL COMMERCIAL CARGOES IN CHILEAN PORTS, WITH THE CHILEAN EXPORTER OR AMERICAN (OR THIRD COUNTRY) IMPORTER DETERMINING WHICH CARRIER HE WOULD USE. ALTHOUGH WE MAY HAVE TO ACCEPT SOME SOLUTION LESS THAN THIS IDEAL ONE, IT DOES NOT APPEAR AT THIS POINT THAT WE CAN ACCEPT DL 1297.

4. AT JANUARY 19 MEETING, FMC REPRESENTATIVE SUGGESTED THAT A POSSIBLE USG COURSE OF ACTION WOULD BE FOR FMC TO ISSUE A "SECTION 21" ORDER REQUESTING ALL CARRIERS IN THE CHILE-TO-U.S. TRADE TO FILE WITH THE FMC COMPLETE BREAKDOWNS OF THEIR LOADINGS IN THIS TRADE OVER THE LAST FEW YEARS. IMMEDIATELY AFTER THIS REQUEST, WE COULD LET IT BE KNOWN TO THE CHILEANS THAT THIS IS A PRELIMINARY STEP BY THE FMC TO GATHER INFORMATION IN SUPPORT OF A "SECTION 19" COUNTERVAILING ACTION AGAINST CHILE. DEPARTMENT CONSIDERS THE FMC SUGGESTION A GOOD ONE AND IF PRESENT IMPASSE NOT RESOLVED SHORTLY, WE PLAN TO RECOMMEND TO THE FMC THAT IT ISSUE A "SECTION 21" ORDER. DEPARTMENT WILL KEEP EMBASSY INFORMED OF OUR FURTHER DELIBERATIONS WITH FMC.

5. ACTION REQUESTED I: DEPARTMENT REALIZES THAT EMBASSY IS NOW IN FREQUENT CONTACT WITH GOC OFFICIALS ON THIS SUBJECT. IN YOUR DISCUSSIONS WITH THEM, IF YOU HAVE NOT ALREADY DONE SO, PLEASE CONVEY TO THEM OUR GROWING OPPOSITION
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TO DECREE LAW 1297 FOR THE REASONS GIVEN IN PARA 3 ABOVE. IF YOU ARE NOT ALREADY DOING SO, PRESS FOR A SOLUTION ALONG THE LINES OF THE INTERPRETATION THAT VALUE ADDED TAX REBATE DOES NOT CONSTITUTE A SUBSIDY, WITH THE ULTIMATE OBJECTIVE THAT CHILEAN EXPORTS, WHETHER TO THE U.S. OR TO OTHER COUNTRIES, WILL ONCE AGAIN BE AVAILABLE TO ALL LINES PARTICIPATING IN THE TRADE.

6. ACTION REQUESTED II: IN THE NEXT FEW DAYS DEPUTY ASSISTANT SECRETARY BILLER IN EB PLANS TO CALL IN AMBASSADOR TRUCCO TO FORMALLY ACQUAINT HIM WITH U.S. GOVERNMENT'S DISPLEASURE AT THE CURRENT CHILEAN DISCRIMINATORY PRACTICES.

IN PREPARATION FOR THIS MEETING, WE WOULD
APPRECIATE LEARNING RESULTS OF EMBASSY'S LATEST
DISCUSSIONS WITH CHILEAN OFFICIALS ON THIS
MATTER, EMBASSY'S ASSESSMENT OF SITUATION,
AND ITS VIEWS CONCERNING BILLER'S INTENDED
DEMARCHE. SISCO

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